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N.J. BOARD OF DENTISTRY
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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY

In the Matter of : Administrative Action
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: **GENNARO J. LANGELLA, D.M.D.** : FINAL ORDER OF DISCIPLINE
License No.: 22DI01497800 :
:
Licensed To Practice Dentistry :
in the State of New Jersey :

The New Jersey State Board of Dentistry has reviewed information regarding Gennaro J. Langella, D.M.D. ("Dr. Langella" or "respondent"), and makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Board issued Dr. Langella a license to practice dentistry in New Jersey on January 28, 1985. He has been licensed to practice at all times relevant to these proceedings.

2. The Board has the authority to exercise investigative powers including examination of records maintained in the practice of the profession. N.J.S.A. 45:1-18.

3. Licensees of the Board have a duty to cooperate with Board inquiries. N.J.A.C. 13:45C-1.2(a).

4. Failure to cooperate with a Board inquiry may be deemed professional misconduct and/or a violation of the Board's enabling act. N.J.A.C. 13:45C-1.2(b). Failure to make a proper and timely response by way of appearance or production of documents to any subpoena issued pursuant to N.J.S.A. 45:1-18 is specifically deemed failure to cooperate. N.J.A.C. 13:45C-1.3(a)(6).

5. On November 26, 2012, the Board issued a Demand for Statement Under Oath and a subpoena to Dr. Langella demanding his appearance before the Board on December 19, 2012, at which time he was to produce original patient records for three individuals. In lieu of the appearance on December 19, 2012, the subpoena offered respondent, at his option and expense, the opportunity to produce certified true copies of the demanded records on or before December 10, 2012. The Demand for Statement Under Oath also required respondent to provide a transcript of the patients' records and financial records.

6. The subpoena was sent by certified mail, return receipt requested, on November 26, 2012. The undated return receipt card was received by the Board indicating delivery on to

Dr. Langella's office. Tracking information on the United States Postal Service website indicates the mail was delivered on November 29, 2012.

7. Respondent neither provided certified true copies of the demanded items by December 10, 2012, nor did he appear on December 19, 2012, the return date of the subpoena. On December 28, 2012, a partial response to the subpoena was received in the office of the deputy attorney general who signed the subpoena. Missing from the materials demanded by the subpoena were radiographs for all three patients.

CONCLUSIONS OF LAW

The above findings of fact provide a bases for disciplinary action in this State as Dr. Langella failed to cooperate with a Board inquiry by failing to make a proper and timely response by way of appearance or production of documents to the subpoena issued on November 26, 2012, in violation of his duty to cooperate with Board investigations. Such conduct is professional misconduct as determined by the Board, N.J.S.A. 45:1-21(e), and is a violation of an act or regulation administered by the Board, N.J.S.A. 45:1-21(h).

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline ("POD") was filed on January 16, 2013. The POD was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Dr. Langella, literally on the eleventh hour faxed a letter dated April 16, 2013, to the Board. Respondent, in his fax, attributed his noncompliance to produce the requested records in a timely manner on a confluence of events. The stated events are: (1) being affected by Super Storm Sandy which caused loss of power and damage to his computer and x-ray equipment, (2) being the primary caretaker for his 84 year old father who passed away on December 28, 2012, (3) losing his home and now being in transition to relocate, and (4) having undergone several surgeries in recent months which caused him to work on a part

time basis. But admitted that "I recognize this does not dismiss me from my professional obligations" to respond to the Board request for production of records.

Since respondent admitted that he has an obligation to the Board to respond in a timely manner, the Board finds that respondent was disingenuous in that it took the filing of a POD seeking to suspend his license and to impose a fine as a disciplinary action, before a partial response was received from him. While the Board is sympathetic to respondent's personal challenges, the Board finds that imposition of a civil penalty and a suspension of his license are warranted because even after the issuance of a Demand for Statement Under Oath (Demand) and a subpoena to produce original patient records for three individuals, he chose to provide partial responses in drips and drabs consisting of a limited narrative regarding treatment of the three (3) patients, uncertified copies of portions of each patient's record, uncertified two sheets of individual films and a panorex for two patients only. Respondent has yet to produce the three (3) original patient records, transcripts of each chart, treatment plans, models (if any), periodontal charting, patient ledgers or billing statements, as requested by the subpoena and the statement under oath. A search of the Board's

correspondence, indicates that the Board office has not received any correspondence or documents from respondent to request an extension of time for complying with the subpoena or the Demand. Further, while respondent has provided an explanation for his noncompliance, the Board finds that his explanation, some six (6) months later, was unsubstantiated by dates or documents or other written evidence, especially to the Board's initial request for the production of records by letter dated September 24, 2012, which was sent a month before there was Super Storm Sandy.

ACCORDINGLY, IT IS on this 1st day of May, 2013,

ORDERED THAT:


1. Respondent's license to practice dentistry shall be suspended until he complies fully with the subpoena on November, 2012, by producing the complete, original patient records for the three individuals identified in that subpoena. The suspension shall commence 14 days following entry of the Final Order of Discipline in this matter and shall continue until the Board or its designee finds the demanded items have been produced.

2. Respondent is assessed a penalty of \$2,500.00, pursuant to N.J.S.A. 45:1-22 and N.J.S.A. 45:1-25 for acts constituting professional misconduct and for violating an act or regulation administered by the Board. The penalty shall be paid by money

order or certified check made out to the State of New Jersey and delivered to the Board of Dentistry, P.O. Box 45005, 124 Halsey Street, Sixth Floor, Newark, NJ 07101, no later than 30 days after the entry of any Final Order of Discipline in this matter. In the event respondent fails to make a timely payment, a certificate of debt shall be filed and or the Board may institute such other collection procedures.

NEW JERSEY STATE BOARD OF DENTISTRY

By:


Peter L. DeSciscio, D.M.D.
Board President